

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**vs.**

**KEVIN E. JONES,**

**Defendant.**

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**CASE NO. 8:09CR273**

**TENTATIVE FINDINGS**

The Court has received the Revised Presentence Investigation Report (“PSR”) and the Defendant’s objections thereto (Filing No. 44). The government adopted the PSR (Filing No. 43). The Court has also reviewed the motion for downward departure and the supporting brief. See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

The Defendant objects to the probation officer’s statements in ¶¶ 87 and 88 that he has not identified grounds for departure. The objection is denied, as the Court is not at liberty to change the probation officer’s opinion. The Defendant’s motion for downward departure will be heard at sentencing.

IT IS ORDERED:

1. The Defendant’s objections to the PSR (Filing No. 44) are denied;
2. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the

submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

3. Absent submission of the information required by paragraph 2 of this Order, my tentative findings may become final;

4. The Defendant's motion for downward departure (Filing No. 45) will be heard at sentencing; and

5. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 13th day of May, 2010.

BY THE COURT:

S/ Laurie Smith Camp  
United States District Judge